

Office of the Secretary, HUD

§ 27.117

the term of service as foreclosure commissioner) with the entity of the foreclosure commissioner is such that, directly or indirectly, one entity formulates, directs, or controls the other entity; or has the power to formulate, direct, or control the other entity; or has the responsibility and authority to prevent, or promptly to correct, the offensive conduct of the other entity.

(d) *Auctioneers.* If the commissioner employs an auctioneer to conduct the foreclosure sale, the auctioneer must be a licensed auctioneer, an officer of State or local government, or any other person who commonly conducts foreclosure sales in the area in which the security property is located.

§ 27.111 Adjournment or cancellation of sale.

(a) The foreclosure commissioner may, before or at the time of the foreclosure sale, adjourn or cancel the foreclosure sale in accordance with the provisions of the Statute. The publication of the Notice of Default and Foreclosure Sale, revised pursuant to the Statute, may be made on any of three separate days before the revised date of foreclosure sale. If there is no newspaper of general circulation that would permit publication on any of three separate days before the revised date of foreclosure sale, the Notice of Default and Foreclosure Sale must be posted, not less than nine days before the date to which the sale has been adjourned, at the courthouse of any county or counties in which the property is located, and at the place where the sale is to be held. The commissioner must also, in the case of a sale adjourned to a later date, mail a copy of the revised Notice of Default and Foreclosure Sale to the Secretary at least seven days before the date to which the sale has been adjourned.

(b) When a substitute commissioner is designated by the Secretary to replace a previously designated foreclosure commissioner, the sale shall continue without prejudice unless the substitute commissioner finds, in that commissioner's sole discretion, that continuation of the foreclosure sale will unfairly affect the interests of the mortgagor. Any such finding shall be in writing. If the substitute commis-

sioner makes such a finding, the substitute commissioner shall cancel or adjourn the sale.

§ 27.113 Foreclosure costs.

A commission may be allowed to the foreclosure commissioner notwithstanding termination of the sale or appointment of a substitute commissioner before the sale takes place.

§ 27.115 Disposition of sales proceeds.

The foreclosure commissioner will keep such records as will permit the Secretary to verify the costs claimed, and otherwise to enable the Secretary to audit the foreclosure commissioner's disposition of the sale proceeds.

§ 27.117 Transfer of title and possession.

(a) If the Secretary is the successful bidder, the foreclosure commissioner shall issue a deed to the Secretary upon receipt of the amount needed to pay the costs of tax liens and prior liens, as set forth in 12 U.S.C. 3762(a)(2) and (a)(3). If the Secretary is not the successful bidder, the foreclosure commissioner shall issue a deed to the purchaser or purchasers upon receipt of the entire purchase price in accordance with the terms of the sale as provided in the Notice of Default and Foreclosure Sale.

(b) The register of deeds or other appropriate official in the county where the property is located shall, upon tendering of the customary recording fees, accept all instruments pertaining to the foreclosure which are submitted by the foreclosure commissioner for recordation. The instruments to be accepted shall include, but not be limited to, the foreclosure commissioner's deed. If the foreclosure commissioner elects to include the recitations required under the Statute (12 U.S.C. 3764) in an affidavit or an addendum to the deed, the affidavit or addendum shall be accepted along with the deed for recordation. The Clerk of the Court or other appropriate official shall cancel all liens as requested by the foreclosure commissioner.